

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

SMI-OWEN STEEL CO., INC. §
§
V. § CIVIL ACTION NO. G-00-149
§ (Consolidated with G-01-627)
MARSH USA, INC. §

OPINION AND ORDER

Before the Court is the “Second Motion for Stay of Execution” of Defendant Marsh USA, Inc. (Marsh); the Motion is opposed by Plaintiff, SMI-Owen Steel Co., Inc.(SMI). The Court, having considered the Motion and arguments of counsel now issues this Opinion and Order.

The Court finds, on the basis of evidence presented at trial and in the uncontested affidavit of Robert J. Rapport, that Marsh & McLennan Companies, Inc.(MMC), the parent company of Marsh, has objectively demonstrated a present financial ability to easily respond to the Judgment in favor of SMI and that a financially secure plan for maintaining the same degree of solvency during the period of an appeal can be, and hereby will be, implemented. See Poplar Grove, etc.

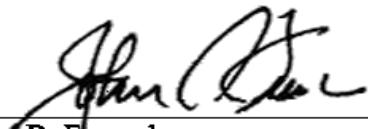
v. Bache Halsey Stuart, Inc., 600 F.2d 1189, 1191 (5th Cir. 1979)

It is, therefore, the **ORDER** of this Court that the “Second Motion for Stay of Execution” (Instrument no. 342) of Marsh USA, Inc., is **GRANTED** subject to reconsideration if MMC fails to submit to this Court **on or before October 6, 2006**, a copy of its Annual Report on Form 10-K for the fiscal year ending December 31, 2005; a copy of those portions of the insurance policy which prove the existence of coverage for SMI’s Judgment and the effective dates of the policy; and a copy of a Guaranty Agreement between MMC and SMI assuring that if Marsh’s appeal is

unsuccessful the Judgment will be paid within a stated period of time after the Judgment becomes final.

It is further **ORDERED** that for as long as this Stay of Execution remains in effect, MMC **SHALL** advise the Court and SMI's counsel within one week if MMC's total stockholder equity drops below three billion dollars and **SHALL** timely submit to the Court and SMI's counsel relevant portions of any renewal of the insurance policy covering the Judgment indebtedness.

DONE at Galveston, Texas, this 7th day of September, 2006.



John R. Froeschner
United States Magistrate Judge